HON'BLE SRI JUSTICE R. SUBHASH REDDY

W.P.NO. 24991 OF 1997

DATED: 30.4.2007

Between:

M. Venkata Srinivasa Rao and another

… Petitioners

and

The District Collector, Nalgonda and others

… Respondents

HON'BLE SRI JUSTICE R. SUBHASH REDDY

W.P.NO.24991 OF 1997

ORAL ORDER:

In this writ petition, the petitioners who are the owners of land in an extent of Ac.9.12 guntas in Sy.No.688 of Kapugal village, Kodad Mandal, Nalgonda District, seek issuance of a Writ of Mandamus to declare the action of the respondents in not acquiring the above said lands though they are submerged under the 'Matangicheruvu', Kapugal village, Kodad Mandal, Nalgonda District, as illegal and arbitrary and to direct the respondents to acquire the said lands and to pay compensation.

It is the case of the petitioners that an extent of Ac.56.11 guntas of land belonging to various pattedars in Kapugal village, Kodad Mandal, Nalgonda District, was submerged in 'Matangicheruvu' in view of the raising of the bund of the said tank. Some of the affected pattedars, whose lands were also submerged, earlier filed W.P.No.12512 of 1991 and the said writ petition was allowed by judgment dated 21.9.1994 directing the respondents to acquire the said lands and to pay compensation.

As against the said judgment, the matter was carried in

appeal by way of Writ Appeal No. 634 of 1995 by the respondents, and, a Division Bench of this Court dismissed the said Writ Appeal by judgment dated 28.7.1995 and modified the order of the learned Single Judge in W.P.No.12512 of 1991, by directing the appellants therein to verify the extent of land submerged under water and to take steps accordingly for issuance of notification under the Land Acquisition Act, 1894 (for short 'the Act'). It is stated that the said order was also confirmed by the Hon'ble Supreme Court.

In this writ petition, it is the case of the petitioners that though the lands of the petitioners to an extent of Ac.9.12 guntas in Sy.No.688 of the Kapugal village, Kodad Mandal, Nalgonda District, were also submerged, but their lands were excluded from the notification for payment of compensation only on the ground that the petitioners have not approached this court earlier. It is admitted by the learned counsel for the respondents that pursuant to the earlier notification, a survey was conducted and to the extent of lands which were submerged, notifications were issued under the provisions of the Act and compensation was also paid.

Even in this writ petition, though initially counter affidavit was filed on behalf of the respondents 1 and 2 denying the very submergence, but however the Irrigation authorities after making inspection have filed an affidavit recently admitting the submergence of the lands of the petitioners in question in this writ petition. However, it is stated that as much as the lands are under

submergence, it is not possible to survey the entire lands to verify the extent of lands of the petitioners, which are submerged.

As much as it is not in dispute that the lands in question are private patta lands of the petitioners and are submerged along with "shikam" lands of the tank of the 'Matangicheruvu', Kapugal village, Kodad Mandal, Nalgonda District, there appears no reason in not acquiring the lands of the petitioners also which are under submergence. In any event, the very issue was dealt with by this court earlier in W.P.No.12512 of 1991, which was allowed on 21.9.1994 and the same was also confirmed with certain modifications by a Division Bench of this court in W.A.No.634 of 1995 dated 28.7.1995, which ultimately was confirmed by the Apex Court.

In view of the submission made before this court that the lands of the petitioners which were submerged under Matangicheruvu are similar to the lands under submergence, which are subject matter of Writ Petition No.12512 of 1991 wherein respondents were directed to acquire the lands and pay compensations, which was affirmed in Writ Appeal No.634 of 1995 with some modification and ultimately by the Honourable Apex Court, I dispose of the writ petition directing the respondents to conduct necessary survey to verify the extent of lands of the petitioners submerged in Matangicheruvu when the tank is full, and, based on such survey report, the respondents shall take necessary steps to notify the lands of the petitioners which are

coming under submergence by issuing necessary notification under the provisions of the Act and complete the process of payment of compensation within a period of six months from the date of the receipt of a copy of this order.

Subject to above directions, the writ petition is disposed of. No costs.

R. SUBHASH REDDY,J

Date: 30.4.2007
CVM